

April 4, 2017

To: House Committee on Transportation Policy
Chair, Representative Caddy McKeown
Vice Chair, Representative Mark Meek
Vice Chair, Representative A. Richard Vial
Member, Representative Greg Barreto
Member, Representative Paul Evans
Member, Representative Susan McLain
Member, Representative Ron Noble
Member, Representative Carl Wilson
Member, Representative Brad Witt

From: Beaverton City Councilor, Lacey Beaty
Beaverton City Councilor, Marc San Soucie
Forest Grove Mayor, Pete Truax
Washington County Commissioner, Greg Malinowski
Washington County Commissioner, Dick Schouten

Re: House Bill 3231 – Enable Formation of Special Districts to Build Limited Access Highways - Is Fundamentally and Fatally Flawed

We all know that transportation planning cannot be done intelligently nor large transportation dollars wisely spent unless that planning and spending is closely linked to and informed by how we plan, develop and use the land through which the transportation infrastructure is to be constructed. Moreover, transportation is not an end in itself, but useful only as a means to an end - to enable us to make the highest and best use of our land and grow the kind of community we want to live, work and recreate in.

Thinking holistically, how can we best use scarce transportation dollars on major transportation projects to: most economically and strategically develop and grow our commercial businesses, manufacturing, farm and forest lands; best build and rebuild strong housing and retail development, and ultimately grow a healthy community where businesses and residents both thrive.

This health, land use and transportation link is now deeply embedded in Oregon law and practice and rightfully so. But House Bill 3231 is totally antithetical to those links. HB 3231 would enable the formation of “special districts” with a single purpose. Their sole purpose would be to “finance the acquisition, design, construction, reconstruction, installation, operation, maintenance and repair of limited-access public highway projects....” So HB 3231 districts wouldn’t necessarily have to consider other purposes, such as protecting and encouraging

existing or planned land uses, community livability and health; nor base their decisions upon sound economic understanding for the highest and best use of our urban, suburban, farm and forest lands.

Once formed, these HB 3231 special districts would be run and operated by their own independently elected board with power to:

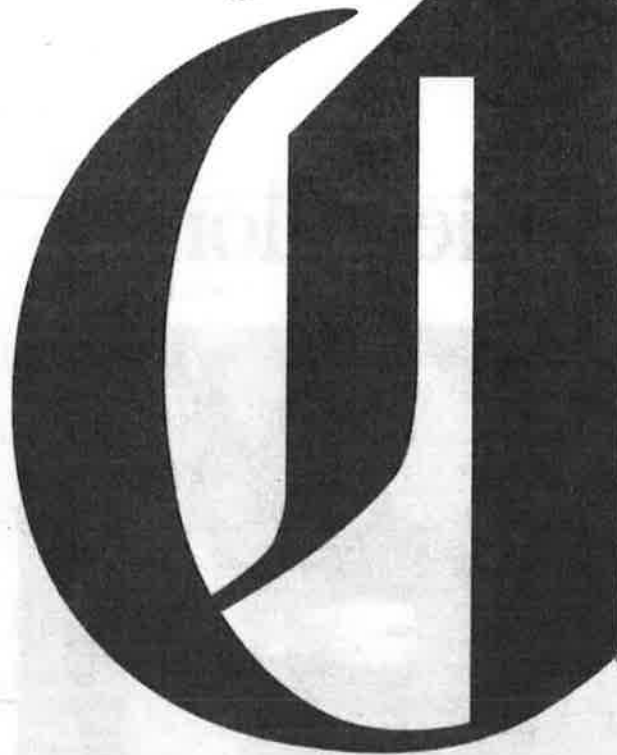
- Accept donations and funds;
- Enter into contracts and partnerships;
- Sue and be sued;
- Lease and sell personal and real property;
- Exercise the power of eminent domain for itself and the benefit of third parties;
- Charge tolls on freeways it builds, issue and sell bonds and make other financing agreements;
- Impose property taxes (if approved by district voters);
- Impose civil penalties and administrative fees and take away persons' vehicle registrations under certain circumstances;
- Be exempt from any and all ORS Chapter 383 "Tollway" requirements, including Oregon Transportation Commission review and approval of its tolls;
- Override "rural reserve" designations;
- Exempt itself from relevant metropolitan service district (e.g., Metro) and any county's comprehensive plans, zoning or land division ordinances and regulations; and
- Finally for good measure, the sweeping power to "Do **any** other act necessary to carry out the purposes of [HB 3231]...." (Bold added for emphasis.)

So bottom line, HB 3231 would enable the formation of powerful freeway building special districts that could easily and likely: operate myopically and independently of any other local and regional government entity, and completely ignore the essential links and logical relationships between transportation, public health and land use. In Washington County a HB 3231 district would have independent and discretionary power to build huge freeway projects of state-wide significance – projects that: could be strongly misaligned with Washington County and other local government's land use planning; ignore our residents' livability and health; and lack a good economic understanding of our County, one of Oregon's chief economic engines.

My deep concerns re HB 3231 are further magnified by one of its principal author's intended uses for this bill, financing and building a (re)proposed Northwest Passage Freeway/Westside By-pass Freeway. (Please see the attached March 1, 2017 *Oregonian* article at pages A-1 and A-10.) State Representative Richard Vial then estimated this freeway would cost between 12 to 20 billion dollars. (Please see the attached at page A-10, first column, third and fourth lines.) More recently, Rep. Vial told Washington County Commissioner Dick Schouten this freeway would likely cost more than 20 billion dollars.

It's essential that the planning, funding and construction for this hugely expensive freeway and any other proposed freeways in the State be strongly linked to existing and planned land uses, sound economic analysis and resident's legitimate public health and environmental concerns. HB 3231 would enable a special district to ride rough-shod over many of those issues and concerns.

HB 3231 is fundamentally and fatally flawed. We agree with the attached Pamplin Media editorial, this "proposal should get shelved". And therefore we respectfully ask you not schedule a work session for this bill and stop this bill from advancing any further through the Legislature.



TRANSPORTATION BILL

How does a \$20B toll road sound?

Gordon R. Friedman *The Oregonian/OregonLive*

SALEM — A freshman state representative filed legislation Tuesday evening that would lay the groundwork for constructing a new highway west of Interstate 5 through Washington County and up over the Columbia River. Shying away from the much-maligned Westside Bypass moniker, the bill's chief sponsor, Rep. Rich Vial, R-Scholls, is giving his dream road a new name: the Northwest Passage.

If passed, Vial's bill would allow cities and counties anywhere in the state to form special districts for entering into public-private partnerships to build and operate limited-access highways. Backing the legislation are Rep. Brian Clem, D-Salem; Rep. Brad Witt, D-Clatskanie; Rep. Ron Noble, R-Yamhill; and legislative heavyweights Sen. Mark Hass, D-Beaverton, and Sen. Brian Boquist, R-Dallas.

The bill is hugely ambitious, a fact not lost on Vial, who has likened himself to the ever-optimistic Don Quixote. And it comes at a time when lawmakers are fretting over a projected \$1.7 billion state budget deficit.

Separately, a select group of legislators are working to pass a massive statewide transportation spending package aimed at maintaining and preserving Oregon's roads and bridges and reducing metro-area traffic.

But Vial said his bill, House Bill 3231, is in a category of

TOLL

FROM A1

would be financed with tolls, bonds or local taxes instead of state or federal money. Vial declined to say how much each toll may cost drivers, but said the total bill for constructing the Northwest Passage could reach \$12 billion to \$20 billion.

He also said his idea is different from the Westside Bypass — a plan killed and resurrected time and again over three decades — because it would allow local governments to set their own plans.

“It only authorizes local communities to come together,” Vial said of the bill. “It doesn’t have a route statement with a funding source behind it.”

If passed, HB 3231 doesn’t guarantee that a special district would form to build the Northwest Passage. But, voters could eventually elect city and county representatives who favor the idea, Vial said.

He declined to map the exact route he imagines for the Northwest Passage highway, saying that decision would be up to elected special district members. But, he said the highway might veer west of I-5 near Hubbard and rejoin it near Ridgeland, Wash., after crossing the Columbia River at Columbia City or St. Helens.

Under Vial’s bill, special districts would be given broad powers to claim land for constructing a limited-access highway, including condemnation and right-of-way powers. The district would also be able to override local designations that protect “rural reserve” land. Vial said he’s aware that aspect of the bill will likely rankle some environmentalists.

“It would be disingenuous of me to try to argue anything other than, ‘Yep, some are going to be troubled by this,’” he said.

Despite obvious hurdles — both political and environmental — Vial is undeterred, saying a limited-access highway west of I-5 is needed regardless. Rush-hour congestion on I-5, U.S. 26 and OR 217 particularly rile commuters from Washington County as well as other areas of the Portland metro area and Southwest Washington.

“Heck yeah, it’s ambitious. But the whole point is we have to be ambitious or nothing will get done,” he said. “Ultimately, this is simply my attempt to allow us to look bigger than anything we’ve been doing, which really isn’t solving our problem.”

Vial said his idea for the Northwest Passage germinated

from trips to his law firm’s Colorado office, where he frequently drove a road called E-470. The 47-mile highway bypasses Denver and was built by a special district that paid for the project with tolls instead of state or federal funding or tax increases.

Today, E-470 has one of the most expensive toll rates in the country, according to the Denver Post, with a price of up to \$17.45 for cars and \$69.80 for trucks to drive the entire highway. But, 25 years after its opening, E-470 is bringing in more drivers and more money than expected.

Back in his district, which extends across Wilsonville, Sherwood and up to Reedville, Vial said constituents told him loud and clear: Fix congestion issues in Washington County. So, he sought the advice of former Colorado Gov. Bill Owens, who headed the state while E-470 was under construction, and got to drafting his bill.

But local governments officials aren’t lining up to support the plan. In separate statements to The Oregonian/OregonLive, Hillsboro Mayor Steve Callaway and Washington County Board Chairman Andy Duyck applauded Vial for his creative thinking, but said their focus is elsewhere, chiefly on the Legislature’s developing transportation package.

And, at least one lawmaker already stands against Vial’s proposal. Rep. Julie Parrish, R-West Linn, said she remains categorically opposed to any legislation that could result in tolling and worries about how special districts would handle right-of-way acquisition for building a big new highway.

At the state level, officials are also mum. Travis Brouwer, assistant ODOT director, declined to comment, saying the agency needs to take an in-depth look at Vial’s bill.

Still, Vial and ODOT Director Matt Garrett sparred at a transportation committee subgroup meeting late Monday night, with Vial arguing in support of private-sector tolling technology and Garrett criticizing those systems as too expensive.

For his part, Vial said he’s thinking big and going full steam ahead with his plans — despite reticence from other legislators.

“A lot of the senior members in the Legislature are like, ‘Oh Rich, that’s such a nice idea. Go at ‘em. Good for you.’ And I believe that their time in the Legislature has left them with knowledge that I’m maybe blessed not to have,” he said. “The reality is that you only get to be ignorant once and sometimes that’s a blessing.”

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Possible routes for West Metro tollway

Proponents of a proposed westside limited access highway have not mapped an exact route, but Rep. Rich Vial said it might follow one of the two routes shown below.



MARK GRAVES/STAFF

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Westside Bypass proposal should get shelved

Created on Tuesday, 21 March 2017 | Written by [Editorial Board](#) | [+](#)

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The Westside Bypass has resurfaced again but we say it should go back on the shelf

The first thing to say about the Westside Bypass proposal, pitched by State Rep. Richard Vial, is that it's innovative, forward-thinking and ambitious. Only a few weeks into his rookie year in the Legislature, and already Vial is looking like a strong new voice of leadership for the Republican party, for his district — which includes a wide swath of Washington County — and for Oregon.

The second thing to say about the Westside Bypass proposal is that it's a flawed concept that should never get a hearing.

Vial's House Bill 3231 would allow cities and counties to create a special district to do the planning, and to figure out the funding, for a new freeway that would loop around the west side of the Portland metro area, taking traffic off Interstate 5 south of Portland and reconnecting with a highway — perhaps Highway 26, north of Hillsboro and Forest Grove — somewhere in Washington County.

The bypass also could be the state's first toll-funding highway. And the first owned and maintained by a private company.

As far as Oregon is concerned, these ideas are as innovative as they are controversial. That didn't scare off Vial, who was elected to his seat last November. Most Oregon politicians would rather dance a samba in the middle of a freeway at rush hour than utter the words "toll road." Yes, toll roads are common in the rest of the country, and around the world. But here? Lawmakers would rank it right up there with privatizing Oregon beaches on the list of third-rail policies — third rail, as in "touch it and die."

So a round of applause for Vial who shrugged off that conventional wisdom. He's right to bring up the option of a toll road, and voters would be crazy if they punish him for it.

That said, Vial's proposal to create a special district falls into the trap of putting transportation policy ahead of land-use policy, urban and rural reserves policy, and the principle of locally elected bodies having their say on major infrastructure projects going through their own communities.

Once cities and counties voted to create this special district, they would lose oversight of it. It's a Sorcerer's Apprentice construct that could run roughshod over the very cities and counties that created it. It could have bonding authority, thus gobbling up much of the available transportation funding in the region, rather than spending that money on projects deemed to be priorities by city, county and state leaders — priorities such as Highway 217 from Tigard to Cedar Hills, connecting Interstate 5 with Highway 26 in Washington County, or widening Interstate 205, where it narrows from three to two lanes in each direction.

Those are the appropriate priorities for transportation projects.

What if the profit from the tolls would be enough to avoid bonding to pay for the highway? That's possible. But what if it's not? Would a private company, balancing the need for profit and the expenses of maintaining a highway, keep the bypass in good shape? And if not, would the state be expected to step in and do so for the sake of safety? Unknown.

Where would this Westside Bypass run? Again, unknown. It could plow through Washington County, or through any of the towns and cities, with little or no say by local elected officials. It could slice through rural reserves — land now protected from urban sprawl — outside the metro area's urban growth

boundary. On at least one map, it could follow Cornelius Pass over the West Hills — does anyone think Cornelius Pass in winter is a good option for a major highway?

Finally, the proposal breaks the rule that land-use planning must take precedence over transportation planning. It's all good and well to come up with a plan for getting from Point A to Point B, but first you need good planning and policy for Point A and Point B. How you get between those places comes next.

Putting transportation policy over land-use policy was one of the fatal flaws of the Columbia River Crossing project, which fell apart in 2013. Proponents said, let's spend several billion dollars to build a new bridge, and later we'll figure out the impact it would have on Portland and Vancouver. No wonder support for the crossing was so lackluster.

Rep. Vial deserves enthusiastic applause for being gutsy and innovative. But his Westside Bypass proposal should die without a hearing.

And meanwhile, we can't wait to see his next big proposal.

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